THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.23955 of 2007

Date:13.11.2007

Between:
L.Venkateswara Reddy

… Petitioner

AND
The Secretary, Regional Transport Authority, Ongole, Prakasam District and another.

… Respondents

Counsel for the petitioners: Sri B.Sivarama Krishnaiah

Counsel for the respondents: Asst. Govt. Pleader for Transport for respondents

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HONOURABLE MR.JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.23955 of 2007

ORDER:-

This Writ Petition is filed for a Writ of Mandamus to declare the seizure of the petitioner's vehicle bearing registration No.AP/27W-7317 under vehicle Check Report No.1493102, dated 11-10-2007 by Motor Vehicle Inspector, Ongole, 2nd respondent herein, as illegal and arbitrary.

A perusal of the record shows that the vehicle owned by the petitioner was stopped and checked at a place near N.G.Padu by the 2nd respondent on 11-10-2007 at 10-45 AM. Clause 7 of the Vehicle Check Report (translated copy) reads as under:

> "Stopped and checked the above Omni Bus while proceeding to Ongole from Inkollu and found fifteen passengers in the vehicle. They do not belong to one party and they are proceeding on their own individual purposes. They are proceeding from Kallagunta to N.G.Padu by paying individual fare of Rs.3/- each. Hence, it is found that the Omni Bus is plying as stage carriage without permit and tax, (2) No D.L., (3) No proof of tax for Q.E.30-9-2007 and 31-12-2007.
>
> Hence, seized the vehicle and kept at N.G.Padu P.S. for safe custody".

The petitioner filed an application under Rule 448-B of A.P. Motor Vehicle Rules, 1989 before the Secretary, Regional Transport Authority, Ongole, 1st respondent herein, for release of the vehicle on 2-11-2007. Since no orders have been passed on that application, the petitioner filed the present Writ Petition.

Heard Sri B.Sivarama Krishnaiah, learned counsel

for the petitioner, and the learned Assistant Government Pleader for Transport.

Learned counsel for the petitioner stated that the vehicle was not used for carrying passengers and that while it was being taken to a work shop at Inkollu it was intercepted and seized. The learned counsel also pointed out that the Vehicle Check Report does not contain any signatures of the alleged passengers nor the 2nd respondent has recorded separate statements of the alleged passengers.

Since the proceedings initiated, following the seizure of the vehicle, are pending before the 1st respondent, I am not inclined to go into the merits of the allegations made in the Writ Petition. However, if the vehicle is kept idle, its condition is likely to get deteriorated. I, therefore, deem it appropriate to dispose of the Writ Petition with a direction to the 1st respondent to release the vehicle of the petitioner, subject to the following conditions:

(1) The petitioner shall produce the documents, such as Registration Certificate and fitness certificate of the vehicle (Omni Bus) bearing registration No.AP/27W-7317 and also the driving license of the driver, who was driving the said bus at the relevant time.

(2) The petitioner shall pay the admitted tax for the relevant quarters.

(3) The petitioner shall give an undertaking to respondent No.1 that he will not alienate or in any manner transfer or alter the nature of the said bus till the proceedings before the 1st respondent,

initiated on the basis of the vehicle check report dated 11-10-2007, are concluded.

(4) The petitioner shall not ply the vehicle without a valid permit.

Subject to the above directions, the Writ Petition is disposed of.

C.V.NAGARJUNA REDDY,J

13-11-2007

Note:
Issue CC in two days.
(B.O)

MNR